

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SACRAMENTO CITY UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2010120581

ORDER GRANTING MOTION TO
DISMISS SACRAMENTO COUNTY
OFFICE OF EDUCATION

On December 13, 2010, Parent Advocate filed a Request for Due Process Hearing (complaint) on behalf of Student (Student), naming Sacramento County Office of Education (SCOE) as a respondent.

On December 21, 2010, SCOE filed a Motion to Dismiss, alleging that Student's complaint fails to list any problems, complaints, or proposed resolutions which involve SCOE.

On December 23, 2010, Student filed a Response to the Motion to Dismiss, contending that SCOE developed programs and contracts which allowed the school district to violate Student's rights to due process.

OAH received no response to the Motion to Dismiss from the Sacramento City Unified School District (District).

APPLICABLE LAW

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs." (Ed. Code, §§ 56500 and 56028.5.)

The purpose of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.) is to "ensure that all children with disabilities have available to them a free appropriate public education" (FAPE), and to protect the rights of those children and their parents. (20 U.S.C. § 1400(d)(1)(A), (B), and (C); see also Ed. Code, § 56000.) A party has the right to present a complaint "with respect to any matter relating to the identification,

evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.” (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a) [party has a right to present a complaint regarding matters involving proposal or refusal to initiate or change the identification, assessment, or educational placement of a child; the provision of a FAPE to a child; the refusal of a parent or guardian to consent to an assessment of a child; or a disagreement between a parent or guardian and the public education agency as to the availability of a program appropriate for a child, including the question of financial responsibility].) The jurisdiction of OAH is limited to these matters. (*Wyner v. Manhattan Beach Unified Sch. Dist.* (9th Cir. 2000) 223 F.3d 1026, 1028-1029.)

DISCUSSION

In this matter, OAH dismissed Student’s issues one and two as insufficient on December 23, 2010. At that time, the ALJ found Student’s issues three, four and five were expedited issues, and made no determination of sufficiency. To date, Student has not filed an amended complaint.

With regard to the three expedited issues, Student contends that SCOE is a proper party to the complaint as it was instrumental in the creation of the Student Attendance and Review Boards and Behavior Hearing processes. According to Student, these processes were instrumental in denying Student due process. These processes, however, are outside the jurisdiction of OAH.

OAH jurisdiction is limited to a complaint under the IDEA with respect to matters relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child. (20 U.S.C. § 1415(b)(6); Ed. Code, § 56501, subd. (a).) Student has not presented any factual allegations to suggest that SCOE was involved in Student’s manifestation hearing (or lack of) or that SCOE denied Student a FAPE. Student’s contentions regarding SCOE’s creation of county educational policies or plans are not subject to the IDEA, and therefore are outside of the jurisdiction of OAH.

ORDER

Sacramento County Office of Education’s Motion to Dismiss itself from Student’s complaint is granted.

IT IS SO ORDERED.

Dated: December 28, 2010

/s/

JUDITH PASEWARK

Administrative Law Judge

Office of Administrative Hearings

